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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,016

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Shinji Suzuki

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EXAMINER

DEGHAN, QUEENIE S

ART UNIT

PAPER NUMBER

1791

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DELIVERY MODE

06/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,016	Applicant(s) SUZUKI ET AL.	
	Examiner QUEENIE DEGHAN	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/7/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-9, drawn to a method for elongating an optical fiber base material.

Group II, claim(s) 10-19, drawn to an apparatus for elongating an optical fiber base material.

2. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The special technical feature is disclosed by Tsuda et al. (JP61-295253).

3. The special technical feature disclosed includes a stretching apparatus and process performed to produce optical fiber base material comprising a pair of gripping device, a heating device, a moving device for moving the gripper and an arithmetic and control unit.

4. Tsuda discloses a stretching apparatus comprising a pair of gripping device (10, 12), a heating device (22), a moving device for moving the gripper (30), and an arithmetic and control unit (36) for controlling the heating device in the drawing (abstract).

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5. Therefore, the special technical feature linking Group I and Group II does not provide a contribution over the prior art and no single general inventive concept exist. Therefore, restriction is appropriate.

6. This application also contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- a. fixing one of the gripping devices and moving the heating device
- b. moving both the gripping devices and fixing the heating device
- c. moving both the gripping devices and moving the heating device

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

7. The claims are deemed to correspond to the species listed above in the following manner:

- a. claim 7

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b. claim 8

c. claim 9

The following claim(s) are generic: 1.

8. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the special technical feature listed in each respective species above are not present in each species group.

9. During a telephone conversation with Christopher Brody on 6/29/09 a provisional election was made with traverse to prosecute the invention of Group II, claims 10-19.

Affirmation of this election must be made by applicant in replying to this Office action.

Claims 1-9 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10-13, 15, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsuda et al. (JP 61-295253). Tsuda discloses an apparatus comprising a pair of gripping device capable of gripping both end of a preform (10, 12), a heating burner (22) capable of burning combustion gases comprising oxygen and hydrogen or propane, a gripping device moving device (16), an arithmetic and control unit (36) capable of controlling the relative speed and pulling speed based on measured diameters to satisfy the claimed expressions, an outer diameter measuring device (18b, 18a), and a heating device moving device (30).

3. Regarding claims 15 and 17, Tsuda discloses a heating burner as the heating device and the combustion gas is O₂ and the flammable gas is hydrogen (abstract, Table).

4. Regarding claim 19, Tsuda further discloses a heating device moving device capable of moving the heating device in a second direction opposite the first direction (as indicated by arrow a in the drawing).

5. Claims 10 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Yokogawa (JP 2275723). Yokogawa discloses an apparatus for stretching an optical fiber base material comprising a pair of gripping devices for gripping both ends of the base material, a moving device for moving one of the gripper devices, a heating device that is an electric resistor furnace, and an arithmetic and control unit capable of controlling the pulling speed by adjusting the relative speed of the heating device based on measurements (drawings and abstract).

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6. Claims 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Saito et al. (6,438,997). Saito disclose an apparatus for stretching optical fiber base material comprising a pair of gripping devices (3, 2), a heating device (4), a moving device (7, 8) capable of moving the gripping devices at different speeds, and an arithmetic and control unit capable of controlling the relative speed (figure 1, col. 5 line 64 to col. 6 line 9, lines 49-64).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuda et al. (JP 61-295253) in view of Nagao (JP2000143270). Tsuda does not specifically disclose a distance from the burner from which outer diameter changes. Nagao

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teaches a similar apparatus comprising gripping devices, a moving device for one of the grippers and a heating device, wherein the heated position is between 0 to 50mm from the position where the outer diameter of the base material starts to change (abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to have expected a similarly distance between the heated spot and the spot where the outer diameter is changing since it is that applied heat that allows for the stretching of the base material and hence change in the outer diameter and therefore, the changing diameter spot should not be very different from the heated spot.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to QUEENIE DEGHAN whose telephone number is (571)272-8209. The examiner can normally be reached on Monday through Friday 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Queenie Dehghan/
Examiner, Art Unit 1791